

1 Watson

2 to cover all bases.

3 Q. These filings for notice of intentions
4 to obtain compulsory licenses, these were for
5 the remixes that we've been going over on
6 Exhibit 11?

7 A. This actually was used for those, yes,
8 Exhibit 11.

9 Q. What led you to believe that the
10 compositions, as they appear on Exhibit 11, were
11 subject to compulsory licenses?

12 MR. BRAUN: Object to the form.

13 Q. Do you understand the question?

14 A. Yes, I understand the question, and
15 the answer is I don't know if they were subject
16 or not. We were basing this off of a pure sense
17 of caution with respect to the compositions.

18 I have a licensing book, and it's a
19 very thick book, and this is not done much, I
20 don't think so, probably less than a hundred
21 times a year. I mean, it's the Library of
22 Congress, but it's basically to ensure that you
23 are not an infringer. Obviously, that didn't
24 work. We were sued for infringement.

25 Q. Have you engaged a musicologist in

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2 TVT with a notice of intention to obtain
3 compulsory license for making and distributing
4 phonorecords. I believe this was sent when TVT
5 refused to sign a negotiated mechanical license
6 to their newly acquired interest in the
7 compositions.

8 Q. When did DM Records discover that TVT
9 Music, Inc. had an interest in a number of the
10 underlying compositions at issue in this
11 proceeding?

12 A. We briefly, in the course of our work
13 with the songs in this lawsuit, we would search
14 the Copyright Office records on a -- online
15 every month or so just -- just to be updated as
16 to any type of changes.

17 To our surprise, and it was a shock
18 and a surprise, as was a recent shock that TVT
19 acquired some type of interest in the
20 compositions that were in a lawsuit that they
21 were involved with earlier with us. You know,
22 the trademark case, I should say. It was
23 confusing and shocking.

24 MR. CAPLAN: I move to strike that
25 portion of the answer that was not

Watson

responsive to the question.

Can you read back the question to him, please?

MR. BRAUN: I object to that motion.

(Record read.)

MR. BRAUN: Object to the form of the question.

A. Could I look at the exhibits again?

Q. Sure.

A. As stated in my previous question --

MR. BRAUN: Answer.

A. -- or, answer, we searched the copyright records every few weeks or monthly or whatever to see if there was -- if there were any filings for registrations for the compositions pertaining to the "Certified Crunk, Da Remix." So we found out, to answer your question, Mr. Caplan, I would imagine it was prior to June 21st of 2005.

Q. Would it be sometime in 2005?

A. It would be in 2005, yes.

Q. And was it pursuant to a search of the Copyright Office's Website?

A. Their Website, yes. We were never

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2 sent any documents from TVT saying that they
3 purchased any rights.

4 Q. And who conducted that search?

5 A. I did.

6 Q. Did you print it out when you
7 conducted it?

8 A. I don't recall. I don't have a
9 printer in my office.

10 Q. Do you have any documents that would
11 indicate the day that you discovered that TVT
12 held an interest in a number of the underlying
13 compositions involved in this case?

14 MR. BRAUN: Object to the form.

15 A. I don't have a specific date when they
16 had a purported interest in these compositions.

17 Q. Has TVT granted any licenses in
18 connection to the interests that they have to
19 DM?

20 MR. BRAUN: Object to the form.

21 A. No, which is very rare in this
22 industry.

23 Q. Did you get the SR recording, or no?

24 MR. BRAUN: I think so. I would like
25 to talk to my client --

1 Watson

2 MR. CAPLAN: Do you want to take a
3 two-minute break?

4 MR. BRAUN: -- to verify that it's --

5 MR. CAPLAN: Yes. Can we take a
6 two-minute break?

7 THE VIDEOGRAPHER: The time is 12:01.
8 We're going off the record.

9 (Recess.)

10 THE VIDEOGRAPHER: The time is 12:10
11 and we're back on the record, video
12 number -- sorry. We're back on the record.

13 MR. CAPLAN: Let's have marked as
14 Plaintiff's Exhibit 47 a two-page document
15 from the Copyright Office that was just
16 provided to counsel, so it has no Bates
17 stamp numbers, and it is -- appears to be
18 dated October 24, 2003.

19 (Plaintiff's Exhibit 47, a two-page
20 document from the Copyright Office dated
21 October 24, 2003, marked for identification,
22 as of this date.)

23 Q. I show you what has been marked as
24 Plaintiff's Exhibit No. 47 and ask you if you
25 can identify that document for the record.

1 Watson

2 A. This looks like a copy of the SR form
3 for the album "Certified Crunk, Da Remix."

4 Q. And this is what came back from the
5 Copyright Office, the registration?

6 A. This is a copy of what came back, yes.

7 Q. Who filled out this form?

8 A. I believe Joe typed it up.

9 Q. And who gave Joe the information to
10 include in this form?

11 A. I think I gave him the information or
12 he picked up the information from the CD.

13 Q. If you turn to the second page of this
14 form?

15 A. Yes.

16 Q. And you look at paragraph A on that
17 page?

18 A. Yes.

19 Q. It says, "Derivative works of the
20 original sound recordings," and then lists a
21 bunch of titles, you see that?

22 A. Yes.

23 Q. And what was meant by that?

24 MR. BRAUN: Object to the form.

25 A. What was meant to filling that out?

Watson

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2 Q. Yes.

3 A. I believe to describe what took place.

4 Q. What did the words "derivative works"
5 mean in the context used in that sentence?

6 MR. BRAUN: Object to the form.

7 A. They were new sounds combined with
8 original sounds. This is with respect to the
9 sound recording.

10 Q. And looking at paragraph B below, it
11 says, "New productions and additional sounds
12 from original vocal sound sources." Do you see
13 that?

14 A. Yes.

15 Q. Were there any additional lyrics added
16 to any of the subject songs?

17 MR. BRAUN: Object to the form.

18 A. No. I believe there were some lyrics
19 taken out.

20 Q. And it's your position that there were
21 no lyrics added?

22 MR. BRAUN: Object to the form.

23 A. There were no -- no, there were no
24 lyrics added.

25 MR. CAPLAN: Let's mark as Exhibit 48

Watson

1 Mix," is that what you're asking?

2 Q. I'm asking for any of the subsequent
3 releases of some of those songs as they appear
4 on Exhibits 30 to 39.
5

6 MR. BRAUN: Object to the form.

7 Q. Do you understand the question?

8 A. I would have to go through each CD and
9 see. I can't -- you can't just show me a stack
10 of exhibits like that.

11 Q. I'll go through each one individually.

12 A. Okay.

13 Q. But the question is were there
14 different -- were there subsequent new mixes
15 created for any of the songs that appear or any
16 of the tracks that appear on Exhibit 11?

17 MR. BRAUN: Object to the form.

18 Q. After the release of "Certified Crunk,
19 Da Remix"?

20 A. Yes.

21 Q. Okay. And do some of those remixes
22 appear on some of the CDs that we've marked 30
23 to 39?

24 MR. BRAUN: Object to the form.

25 A. I'm looking to see if the "Reggaeton

Watson

Remix" is in that stack.

(Mr. Caplan indicating CD.)

A. Oh, yes. Yes, there were.

Q. Is "Reggaeton Remix" the only CD of the CDs between 30 and 39, or Plaintiff's Exhibit 30 to 39, that have new remixes that weren't otherwise included on Exhibit 11?

MR. BRAUN: Object to the form.

A. I believe so.

Q. By the way, are the dates that are reflected on allmusic's Website in connection with the releases of Exhibits 30 to 39 accurate as far as you know?

MR. BRAUN: Object to the form.

A. I do not know.

Q. Why were -- why did DM remix again the tracks that were on Exhibit 11 for inclusion on Exhibit 31?

MR. BRAUN: Object to the form.

Q. For what purpose?

MR. BRAUN: Object to the form.

A. For the purpose of releasing a new release.

Q. When was -- do you have any knowledge

Watson

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2 alongside as a side person, as a --

3 Q. Has he ever held himself out to the
4 public to be a reggaeton artist, as far as you
5 know?

6 MR. BRAUN: Object to the form.

7 A. I don't believe so, no.

8 Q. What was done to the Crunk
9 recordings -- strike that. The recordings that
10 were remixed to create the recordings on
11 "Reggaeton," the remix album, were they
12 previously in the genre of crunk music?

13 MR. BRAUN: Object to the form.

14 A. The vocals, once again, we're going
15 back to the vocal sound source, which was
16 provided to me from Mr. Glover, are the same,
17 except I -- except for the fact that the
18 profanity is taken out of this release.

19 Q. And you're referring to the
20 "Reggaeton"?

21 A. The "Reggaeton" release, yes, Exhibit
22 31. Yes, essentially, the profanity was taken
23 out, but the original vocal source was
24 completely kept in its form.

25 Q. And the music is different on the